

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7779 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

RAMILABEN KANTILAL CHAUHAN

Versus

REGIONAL PROVIDENT FUND COMMISSIONER

Appearance:

MR DS VASAVADA for Petitioner
MR BHARAT T RAO for Respondent No. 1
MRS VASAVDATTA BHATT for Respondent No. 2
NOTICE SERVED for Respondent No. 3

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 19/12/98

ORAL JUDGEMENT

The say of the petitioner in this Special Civil Application under Article 227 of the Constitution of India is that her husband late Kantilal Motibhai Chauhan was appointed with the respondent-Corporation as Driver. While on duty, in an accident, he died on 1.7.1990. He was allotted P.F. account bearing No.GJ-11-22/C/56799. A sum of Rs.80,000/- was paid by the Commissionere under the Workmen's Compensation Act. Further the say of the

petitioner is that she is entitled to family pension, but the same has been denied on the ground that her late husband had not contributed against the Provident Fund for three months.

2. It is contended by Mr. Vasavada learned Advocate for the petitioner that the deceased Kantilal Chauhan became member of the Provident Fund with effect from 1.5.1989, but actually the deductions were made by the respondent Corporation from 1.5.98 for which no fault can be found with the deceased employee. Learned Advocate appearing for the Corporation states that the deduction against the provident fund from the salary of the deceased employee was made for two months. It is further submitted that the petitioner would be entitled to family pension under the Scheme only when there was deduction for a period of three months.

3. This Court in Special Civil Application No.9781/94 in the case of Gitaben A Sheth v. Regional Provident Fund Commissioner & Ors., decided on 17.12.1995, held that the mere fact that the employer had not deposited the amount deducted from the salary, cannot be a ground for refusing to give benefit of family pension under the Scheme. The present case is squarely covered by the said decision.

4. In view of the aforesaid, this Special Civil Application is allowed. The respondents are directed to release all benefits of Family Pension Scheme, 1971 in favour of the petitioner, if the other conditions are satisfied. This order is to be complied with within a period of three months from the date of receipt of the writ.

Rule made absolute to the aforesaid extent..

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msp.